

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DANIEL ERIC COBBLE,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO.: 2:19-cv-705-ECM
)	(WO)
United States of America,)	
)	
Respondent.)	

MEMORANDUM OPINION and ORDER

On February 13, 2020, the Petitioner filed a fourth Notice of Appeal in this case which the Court construes to contain a motion for leave to appeal *in forma pauperis* and a motion for a certificate of appealability. (Doc. 36).

28 U.S.C. § 1915(a) provides that “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” In making this determination as to good faith, the court must use an objective standard, such as whether the appeal is “frivolous,” *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or “has no substantive merit,” *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam); *Morris v. Ross*, 663 F.2d 1032 (11th Cir. 1981). In addition, a certificate of appealability is necessary before a petitioner may pursue an appeal in a habeas corpus proceeding. *See* 28 U.S.C. § 223(c)(2); *see also Barefoot v. Estelle*, 463 U.S. 880, 893 (1983). Applying these standards, the court is of the opinion that the Petitioner’s appeal is without a legal or factual basis and, accordingly, is frivolous and not taken in good faith. *See e.g. Rudolph v. Allen*, 666 F.2d 519 (11th Cir. 1982).

The Petitioner seeks to appeal the Court's order overruling his objection to the order of the Magistrate Judge denying his motion for an order for the United States Marshals to transport him to a hearing in a Tennessee state court. (*Id.*). The Magistrate Judge denied the Petitioner's motion to be transported to Tennessee. (Doc. 30). The Petitioner filed an objection to the order which the Court reviewed and denied as the order was "neither clearly erroneous nor contrary to law." (Doc. 35) (citing FED.R.CIV.P. 72). The Eleventh Circuit previously denied the Petitioner's motion to transport to Tennessee filed in that Court. (Doc. 31). Thus, the Court concludes that the Petitioner's appeal of its order denying his motion to transport to Tennessee is without a legal or factual basis. Accordingly, it is

ORDERED as follows that:

1. The Petitioner's motion to proceed on appeal *in forma pauperis* is DENIED;
2. The appeal in this cause is certified, pursuant to 28 U.S.C.A. § 1915(a), as not taken in good faith; and
3. The Petitioner's motion for certificate of appealability is DENIED.

Done this 28th day of February 2020.

/s/ Emily C. Marks
Emily C. Marks
CHIEF UNITED STATES DISTRICT JUDGE